

**FILED**

MAR 13 2008

RICHARD W. WIEKING  
 CLERK U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

NORTHERNDISTRICT OFCALIFORNIAUNITED STATES OF AMERICA  
V.KEVIN THO NGUYEN,  
a/k/a THIET NGUYEN

Venue: SAN FRANCISCO

**CRIMINAL COMPLAINT**03-00131  
CASE NUMBER:**JCS**

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about May 3, 2000, in San Francisco County, in the Northern District of California defendant willfully and knowingly made a false statement in an application for a passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws, in violation of Title 18 United States Code, Section 1542.

I further state that I am a Special Agent of the Diplomatic Security Service and that this complaint is based on the following facts:

**See attached Affidavit in Support of Criminal Complaint**

Maximum Penalties Title 18 U.S.C. Section 1542:

10 years imprisonment, \$250,000 fine, 3 years supervised release, \$100 special assessment fee

APPROVED AS TO FORM:

Wendy Thomas, SAUSA

Continued on the attached sheet and made a part hereof:  Yes  No

Warrant of Arrest Requested:  Yes  No

Bail Amount: N/A

Sworn to before me and subscribed in my presence,

March 3, 2008

Date

at San Francisco, California

City and State

Signature of Complainant, Jeffrey C. Dubsick

**Judge Joseph C. Spero**  
**United States Magistrate Judge**

Name &amp; Title of Judicial Officer

Signature of Judicial Officer

UNITED STATES DISTRICT COURT )  
NORTHERN DISTRICT OF CALIFORNIA ) ss. AFFIDAVIT  
 )

AFFIDAVIT IN SUPPORT OF A CRIMINAL  
COMPLAINT CHARGING  
KEVIN THO NGUYEN a/k/a THIET NGUYEN,  
WITH VIOLATING 18 U.S.C. § 1542,  
FALSE STATEMENT IN APPLICATION AND USE OF PASSPORT

I, Jeffrey C. Dubsick, do swear and affirm as follows:

**Purpose of Affidavit**

This affidavit establishes probable cause to arrest KEVIN THO NGUYEN for False Statement in Application and Use of a Passport, in violation of 18 U.S.C. § 1542. KEVIN THO NGUYEN is alleged to have applied for a United States passport in the false name of THIET NGUYEN. This affidavit does not contain every fact, piece of information or evidence concerning this alleged violation.

**Affiant Background**

I am a Special Agent employed by the United States Department of State, Diplomatic Security Service (DSS). DSS Special Agents are empowered under Title 22 U.S.C. § 2709 to investigate passport fraud and to apply for and serve warrants. I have a Bachelor's degree from the University of California at Santa Barbara, and I am a graduate of the Federal Law Enforcement Training Center's (FLETC) Criminal Investigator Training Program. I have been employed by DSS since December 2004, and have received and receive, on an ongoing basis, training in the laws, rules and regulations concerning passports. My previous investigations have resulted in at least 40 convictions for passport fraud and related offenses.

**Relevant Statute**

The Passport Act of 1926, as amended, was in full force and effect throughout the period of this investigation. This Act, codified in 22 U.S.C. § 211a, authorized the United States Secretary of State to grant and issue United States passports under rules prescribed by the President and/or other federal laws. Some of these rules are that a person wanting a United States passport must complete and submit an application to the State Department and must submit proof of American citizenship, usually a birth certificate, and proof of identity, usually a driver's license, with their application. Another rule allows officers at United States Post Offices to accept passport applications, and to then forward them to the State Department for processing.

Title 18 U.S.C. § 1542 states, in pertinent part, “Whoever willfully and knowingly makes any false statement in an application for a passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for their own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws...shall be fined under this title...or imprisoned not more than 10 years...or both.” Title 18 U.S.C. § 3291 provides for a ten year statute of limitations for passport offenses.

### **Case Facts and Evidence**

1. On or about May 3, 2000, the defendant, KEVIN THO NGUYEN, purporting to be THIET NGUYEN, submitted an application for a United States passport at the Golden Gate Post Office in San Francisco, CA, which is located in the Northern District of California. The defendant used a California Driver’s License (#B7504060) issued on January 20, 2000 bearing his photograph, but with the name THIET NGUYEN. In addition, the defendant supplied social security number with the last four digits 3162 with the passport application, which matches that of THIET NGUYEN. Passport number 056111521 was subsequently issued based on this application.

A review of this application revealed that the defendant submitted his photograph with the passport application, and that he listed the following information on the passport application:

Name: THIET THANH NGUYEN  
 Birth date: XX/XX/1981  
 Place of birth: San Francisco, CA  
 Mother’s Full Maiden Name: Phan Pham  
 Mother’s Place of Birth: Vietnam  
 Father’s Name: Luong Nguyen  
 Father’s Place of Birth: Vietnam  
 Social Security Number: XXX-XX-3162  
 California Driver’s License: B7504060

2. During the course of applying for a renewal California driver’s license on April 27, 2007, the true THIET NGUYEN submitted United States passport 056111521 to the Department of Motor Vehicles (“DMV”), bearing the name of THIET NGUYEN, but with the photograph of KEVIN THO NGUYEN. DMV noticed that the person in the passport photograph did not resemble the true THIET NGUYEN who was applying for the driver’s license.

3. On May 21, 2007, Investigator Calvin Woo (“Investigator Woo”), a Peace Officer for the California DMV, interviewed the true THIET NGUYEN concerning his driver’s license renewal. THIET NGUYEN stated that he was the individual in the passport photo. Following this interview, Investigator Woo got copies of the driver’s licenses that had been issued in the name of THIET NGUYEN and sent the fingerprints associated with the different licenses to the Department of Justice (“DOJ”) for

comparison. DOJ Latent Print Analysis performed a fingerprint comparison on June 20, 2007, and confirmed that the fingerprints do not match.

4. On September 13, 2007, Investigator Woo went to the U.S. Department of State and spoke with Richard Macias concerning his investigation of THIET NGUYEN. Subsequently, your affiant contacted Investigator Woo, who stated that he had an investigation open on THIET NGUYEN and that THIET NGUYEN supplied DMV with United States passport 056111521, bearing the name of THIET NGUYEN during the course of applying for a renewal California driver's license. Investigator Woo also informed your affiant that the person in the photograph did not resemble THIET NGUYEN.

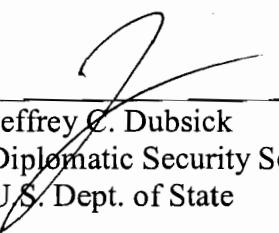
5. Investigator Woo and your affiant then attempted to contact THIET NGUYEN in order to conduct a follow up interview by leaving several voice messages. Investigator Woo and your affiant then went to 61 Bitting Street and left business cards and instructions that we wanted to speak with THIET NGUYEN. Investigator Woo interviewed THIET NGUYEN on November 6, 2007, at the San Francisco Office of the Division of Investigations of the DMV. During the interview, THIET NGUYEN told Investigator Woo that the person in the photo appearing on U.S. Passport # 056111521, under the name THIET NGUYEN, was in fact his brother, KEVIN THO NGUYEN. THIET NGUYEN stated that he allowed his brother KEVIN to use his identifying information to obtain U.S. Passport # 056111521. THIET NGUYEN further told Investigator Woo that his brother KEVIN THO NGUYEN physically went to the passport office and applied for the passport. Additionally, THIET NGUYEN provided Investigator Woo with a sworn affidavit summarizing his responses.

6. On November 9, 2007, and on other dates, your affiant reviewed records on file with the California Department of Justice and the DMV concerning KEVIN THO NGUYEN and THIET NGUYEN. He then obtained copies of KEVIN THO NGUYEN's California driver's license photographs and other booking photographs dating back to 1994, and similar photographs for THIET NGUYEN dating back to 1997. Your affiant then compared the person in all of these photographs to the person in the passport application photograph, and observed the person in the passport application photograph appeared to be KEVIN THO NGUYEN, and not THIET NGUYEN.

## **Conclusion**

I respectfully submit that the above presented facts establish probable cause to believe that KEVIN THO NGUYEN, a/k/a THIET NGUYEN, did present a California Driver's License bearing the name THIET NGUYEN when he submitted it with an application for a United States Passport at the Golden Gate Post Office in San Francisco, CA, which is located in the Northern District of California, on May 3, 2000, in violation of Title 18, United States Code, Section 1542, False Statement in Application and Use of Passport.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.



Jeffrey C. Dubnick  
Diplomatic Security Service  
U.S. Dept. of State

SUBSCRIBED AND SWORN BEFORE ME  
On March 3, 2008



The Honorable Joseph C. Spero  
US Magistrate Judge  
Northern District of California